

A PROPOSED AGENDA FOR REFORMING SKILLS-BASED PARALEGAL TRAINING TO ENABLE FUTURE READINESS

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I INTRODUCTION

‘Disruptive’ is an apt way to describe the impact of technological innovation on the legal profession and the delivery of legal services. There is arguably little debate over whether disruptive technology can and will impact the legal profession.¹ The debate is more about the extent, speed and repercussions of disruptive technology on the legal profession. For the purposes of this paper the ‘legal profession’ covers job roles as diverse as practising lawyers, in-house counsel and legal support professionals such as paralegals. This paper addresses the implications of technological change for paralegal training.

Notably, computer technology applications promise to transform the delivery of legal services by boosting productivity to replace humans in routine tasks which become partially or fully assigned to non-human agents, thereby displacing junior lawyers and paralegals. Key technological advances include software applications tailored for a wide variety of legal work in areas as diverse as patents, bankruptcy and contracts. For example, some applications, powered by data analytics technology, can parse through volumes of documents to collect valuable information, a process that would normally require many hours of human labour. Some examples are:

- the COIN application developed and used by banking giant JPMorgan² for contract reviews; and
- ‘Technology-assisted review’ (TAR) with natural language and machine learning techniques utilised in relation to gigantic data sets of e-discovery.³

The ultimate effect of such labour-saving advances is arguably to narrow the gap between producer and consumer, by reducing the number of human intermediaries involved in the production of legal work. For example, the availability of do-it-yourself applications allows clients to bypass lawyers for basic legal services, such as customisation of contract templates, legal registration and even simple court processes.⁴ Increasingly, clients are expecting legal service providers to avail themselves of these applications and to pass down the resulting

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1 Deloitte, *Developing legal talent: Stepping into the future law firm* (12 April 2017) <<https://www2.deloitte.com/uk/en/pages/audit/articles/developing-legal-talent.html>>

2 Hugh Son, ‘JPMorgan Software Does in Seconds What Took Lawyers 360,000 Hours’ (*Bloomberg*, 13 April 2017) <<https://www.bloomberg.com/news/articles/2017-02-28/jpmorgan-marshals-an-army-of-developers-to-automate-high-finance>>. The software developed and used by JPMorgan known as known as Contract Intelligence (COIN).

3 Michael Mills, ‘Artificial Intelligence in Law: The State of Play 2016’, *Thomson Reuters* (12 April 2017) <<https://www.neotalogic.com/wp-content/uploads/2016/04/Artificial-Intelligence-in-Law-The-State-of-Play-2016.pdf>>.

4 Justice Lee Seiu Kin, ‘Transformative impact of technology on the legal profession’ (Speech delivered at ‘Changing with The Times: A Roundtable Discussion on the Future of the Profession of Law’, Singapore Academy of Law, 3 November 2016).

cost savings to them. Likewise, the proliferation of ‘do-it-yourself’ platforms for basic legal documentation, means that many small law firms may find their basic work diminishing.⁵

There are two key implications of such technological changes for training paralegals. First, it appears that paralegal training ought now to focus on those skills that cannot be outsourced to non-human agents. This suggests that the legal profession should view this era of technological disruption as an opportunity to reform legal services delivery and notably, to focus on up-skilling paralegals, so they can perform skilled work that cannot be automated.

Second, legal professionals will arguably need to be open to the possibility of traditional roles being recast. A survey conducted by the National Association for Law Placement (NALP), an association of legal career professionals giving career development advice, tried to identify and describe emerging legal job roles.⁶ Collectively labelled as ‘NALP Survey Job Titles’, the sampling of legal job roles included: Legal Risk Manager, Document Review Manager, Legal Management Consultant and Legal Project Director. These roles do not involve actual legal practice but are now increasingly located inside law firm and corporate settings. An example cited in the NALP survey is that of the transformed role of the ‘Legal Knowledge Manager’ as advertised by law firm Fenwick & West.⁷ This role oversees document automation, a task which might traditionally have been seen to belong in an Information Technology professional’s domain. With the emergence of hybrid roles, the legal profession arguably must examine how it should adapt to meet these challenges. A good part of the solution may lie in revising how legal training is conducted.

The issue for legal training providers is whether they will be active agents of change to meet the challenges, or whether they adopt a ‘wait-and-see’ attitude. As the authors of this paper train paralegals, we advocate the former approach, bearing in mind the challenges posed.

II OUTLINE

This exploratory paper proposes an agenda for reforming skills-based paralegal education. Paralegals play a vital role in the provision of legal support services. Currently, the literature on paralegal training is limited, and there is little discussion on how disruptive technology may affect paralegals’ role in the legal profession. We suggest paralegals can assume an increasingly important role in the law firm of tomorrow, if they are equipped with what we consider to be the right skills and mind-set. To achieve this goal, it will arguably be necessary to:

- (1) identify ‘evergreen’ (translatable) skills which will remain relevant;
- (2) recognize and teach new skills in light of revised job profiles; and
- (3) analyse the opportunities and roadblocks in transforming paralegal training.

This paper evaluates the skills in which paralegals are currently trained, and proposes training practice reforms to bolster paralegals’ employability, in light of technological advancements. This paper also discusses potential roadblocks to implementing these reforms.

III THE EVOLVING ROLE OF THE PARALEGAL

Paralegal work profiles may differ based on their employment context. This section focuses on paralegals in law firms, because the majority of the authors’ law graduates are employed there. The tasks which paralegals carry out are generally of an administrative nature. The most

5 Ibid.

6 National Association for Law Placement, *Report of the Emerging Legal Jobs Work Group* (August 2015) <https://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2016_joint_cle/1_2015EmergingLegalJobsFinalReport.authcheckdam.pdf>.

7 Ibid 5.

common tasks are: word processing, research, proofreading, data entry, drafting agreements and filing court documents. In some cases, paralegal tasks include client interviews and general office management. Several of these tasks are now being automated through the use of the following:

- (a) DragonDictate for word processing;
- (b) ROSS for research, Gradeproof for proofreading; and
- (c) LawConnect for data entry and LEAP legal software for filing and document drafting.⁸

Studies indicate that there is a high probability of technological innovation displacing the paralegal.⁹ Software applications such as legal search databases, document management and practice management tools, have been shaping legal practice and complementing human labour and intellect, for some time. However, the integration of technology and legal service delivery is rapidly transforming, as software applications move into the domain of higher order, unstructured thinking tasks¹⁰. Consequently, employers of paralegals must arguably reflect on how to redeploy rather than terminate their paralegals, to support their business in new ways. While this transition can be regarded as a human resource challenge, it is also an opportunity to shift competent paralegals from ‘routine’ tasks towards higher-level legal tasks that are capable of generating revenue at a lower cost, or in new legal service delivery areas. The key issue, as the authors see it, is how to redesign paralegal training to give paralegals the requisite skills to perform higher-level tasks and deliver legal services in novel ways. To this end, the next section examines the three points set out in Part II above.

A Identifying ‘Evergreen’ (Translatable) Skills for Employability

Temasek Polytechnic (TP) launched the first paralegal training program in Singapore in 1993. Their rationale was to fill a lacuna for well-trained legal support in the legal profession. The curriculum’s design was broad-based, encompassing the teaching of technical and non-technical skills.

Technical skills involve: legal research, application of the law and basic office management. Non-technical skills include: communication skills, problem solving, self-directed learning, collaborative work and conflict management. The teaching methodology includes:

- (a) the use of traditional methods and Problem Based Learning (PBL) for substantive law;
- (b) the employment of Real Environment Active Learning (‘REAL’) for procedural law; and
- (c) conducting ‘on-site’ tutorials (which are subject based) and internships to expose law students to nuances of the working world.

The core subject ‘Leadership: Essential Attributes & Practice’ (‘LEAP’), cultivates the attitudes, skills and knowledge which are arguably needed to function in society. Through these teaching methods, we focus on building the process skills depicted in Diagram 1 in Appendix A at the end of this paper. The skills depicted in Diagram 1 have proven to be resilient over time, as evidenced arguably by the authors’ law graduates’ employability rates, and the feedback

8 Chris Stock, ‘Automation and machine learning: an opportunity to up-skill support staff’ (*Forbes*, 10 April 2017) <<https://www.forbes.com/sites/forbestechcouncil/2017/04/10/automation-and-machine-learning-an-opportunity-to-upskill-support-staff/#1097acd06b09>>.

9 Dana Remus and Frank Levy, ‘Can Robots Be Lawyers? Computers, Lawyers, and the Practice of Law’ (12 April 2017) <<https://ssrn.com/abstract=2701092>> .

10 Eric Koh, ‘Legal Technology: Robots the Latest Threat to Associates And the Billable Hours via Law360’, (*LexisNexis*, 12 April 2017).<https://www.lextalk.com/b/lextalk_blog/archive/2016/07/25/legal-technology-robots-the-latest-threat-to-associates-and-the-billable-hour-via-law360.aspx>. See also, Mills, above n 3.

received from legal profession employers. In the authors' view, the Diagram 1 skills are 'evergreen' (translatable) and will remain relevant even in the evolving technological landscape, and therefore beneficial to law students by positioning them to face perceived challenges ahead. However, nothing remains static, least of all the skills required for jobs of the future. Thus, having identified the 'evergreen (translatable) skills' that paralegals ought to possess, the next section examines the skills which are currently not associated with paralegal training, but may still merit consideration given the expected transformation of the legal profession and the paralegal role.

B Recognising and Teaching New Skills in Light of Paralegal Job Profiles of the Future

The authors' principal objective in identifying new paralegal skills, is to propose a new paralegal training roadmap that is based on a workplace model in which graduate paralegals work in multi-disciplinary teams, across different functional areas within a modern legal service provider (Human Resources, Information Technology, Marketing and Legal). The roadmap's rationale is not to create a paralegal with multiple specialisations, but rather, to ensure that graduate paralegals have broad-based knowledge and skills which are needed to function effectively in the legal sector of the future. The impending transformation of paralegal job roles and the skills with which they ought to be equipped, can be better understood when broken down contextually as set out in Diagram 2 in Appendix B at the end of this paper, which the next section discusses.

1 CHANGE MANAGEMENT

As routine low-level legal tasks become increasingly automated, law firms will arguably need to manage the transition to 'smart' offices. Paralegals with good 'change management' skills will be well positioned to oversee this transition and to undertake higher-level legal work, thereby contributing meaningfully to the range of legal services the law firm offers.

The authors foresee a tripartite workplace model in which lawyers oversee the core legal work within a law firm, while basic legal tasks are automated, and paralegals undertake the 'heavy lifting' within the firm in terms of: data analysis, project management, conflict resolution, and the application of trans-disciplinary thinking across job functions. Paralegals are likely to be integral to change management and the adoption of new technologies, and may also play a critical role in developing workplace flexibility and innovation in legal services delivery. As such, the paralegal will arguably need skills to locate and analyse data which may be essential for making business decisions.

Paralegals will also require relevant 'Project Management' skills including good organisation skills and some capacity for 'activity grouping.' This requires the separation of each project into specific tasks, with a view to assigning these tasks to the right person, thus enhancing workplace efficiency and minimising conflict within an office. As the practice of law involves navigating disciplines as diverse as business, technology, psychology and interpersonal relations, 'Trans-disciplinary Thinking' would also be essential. This involves understanding concepts across varied disciplines to guide decisions in managing change.

2 SKILLS RELEVANT TO HARNESSING TECHNOLOGY AT THE WORKPLACE

The legal profession is increasingly using technology to mine existing datasets and undertake sophisticated data analyses to make predictions. Appropriately applied, such analyses can provide valuable information about litigation trends and court case outcomes, as well information about legal services demand and client preferences.¹¹ Lawyers may be able to leverage upon these trends to better serve client needs.

11 Ibid.

Paralegals are ideally placed to undertake such analyses, if appropriate training is given. In particular, paralegals will arguably need to acquire relevant data management and quantitative analysis skills, to access or manage sophisticated datasets, and identify relationships and linkages within a dataset. Paralegals may be expected to make sense of such data by deconstructing and visually representing insights from appropriate analyses.¹² We refer to this skill as ‘Sense Making’.

Paralegals are arguably also well situated to implement on-going change management within a law firm because of their day to day involvement with workflows. For example, paralegals can often identify areas of work that can be outsourced or automated. In addition, application of ‘Computational Thinking’ will be useful to break down workflow processes and present them in a way that a computer can understand.¹³ Computational Thinking will be especially relevant in planning for automation that is identifying which processes are ripe for automation, and laying out the workflow for application developers to code.

‘Quantitative and Statistical Literacy’ skills are relevant to undertake cost-benefit analyses in technology deployment. This may involve scrutinising the financial aspects of technology investment such as: an investment return, costs savings, impact on the business’ bottom line, and evaluating vendor quotes.

3 BUSINESS DEVELOPMENT

Paralegals who are also managers, may have an important role in ‘Business Development’ by assisting with the law firm’s marketing strategy. The term ‘marketing’ arguably applies to all activities that produce: legal work and ultimately, lawyers’ fees.¹⁴

Paralegals can be trained to contribute to a firm’s marketing efforts through digital platforms and creating online awareness. In addition, to gain familiarity with online marketing tools, paralegals of the future may also need to have problem-solving and communication skills¹⁵ that are suitable for an ever-evolving legal services market. The ‘Project Management’ and ‘Data Analysis’ detailed above, would also be clearly applicable to marketing activities. A critical component of ‘Business Development’ might include horizon scanning for business development activities, and gaining insights into a client’s industry.¹⁶

These are areas where a paralegal with relevant ‘Quantitative and Statistical Literacy’ skills and analytical prowess,¹⁷ would be potentially well-positioned to assist in marketing the firm. Business development tasks also require paralegals to collaborate with technical experts from diverse areas outside law, such as: artists, programmers, professional marketers. Such interaction can be best done by applying ‘Trans-disciplinary Thinking’, as discussed above. Given the global marketplace for experts and the fast-paced, online world of today, many such collaborations may occur by virtual means. As such, the ability to engage in ‘Virtual Collaboration’ is potentially advantageous.

12 SkillsFutureSG, ‘*Skills Framework Referencing for Curricula. Workshop for the Polytechnics. Generic Skills & Competencies*’ (October 2016). <http://www.skillsfuture.sg/docs/SkillsFramework/ST/overview_of_generis_skills_and_competencies.pdf>.

13 British Broadcasting Corporation, ‘Introduction to Computational Thinking’ <<http://www.bbc.co.uk/education/guides/zp92mp3/revision>>.

14 Gary Munneke, ‘Legal Skills for a Transforming Profession’ (2001) 22 *Pace Law Review* 105, 144.

15 Stock, above n 8.

16 Ibid.

17 Catrina Denvir, ‘The rise of the multi-disciplinary lawyers: A challenge for legal education’, *Legal Futures* (26 May 2017) <<http://www.legalfutures.co.uk/blog/rise-multi-disciplinary-lawyer-challenge-legal-education>>.

C Roadblocks and Opportunities for Training Paralegals

Having discussed some of the skills that are arguably relevant to equip paralegals to be future ready, this paper now discusses some of the challenges for reforming paralegal training. The authors consider that reforming paralegal training promises to be a challenging and exciting exercise involving multiple stakeholders. To navigate any uncertainties, stakeholders arguably ought to proactively recognise the challenges, and identify possible opportunities to overcome them. Some possible challenges that the authors foresee, are:

- (a) the legal profession being slow to accept that technology is disrupting the manner in which legal services are delivered and consumed;
- (b) legal educators resisting the redesign of current training methods to include technology enabled learning;
- (c) legal profession educators being reluctant to adapt and prepare for change through continuing professional development;
- (d) the legal profession maintaining a conservative attitude towards the creation of new jobs, and the renovation of old roles to exploit opportunities provided by on-going technological innovation; and
- (e) students and other learners struggling with new teaching approaches.

This paper's discussion focuses on the challenges faced by legal educators. These challenges should not be underestimated. For example, law educators may need to train students in skills that they themselves may not well understand. They may also need to up-skill and reskill themselves, or at least re-orient themselves to be increasingly effective in imparting skills based training and assessing the mastery of skills, as opposed to a more traditional focus on assessing the mastery of content.

Institutional support in terms of study leave and training budgets, will be paramount in equipping and retooling legal educators. Educational institutions will need to build on links with industry players to get skills-based training into the classrooms, and to give students further exposure to evolving workplace environments, as such experiences will be critical to ensuring that training remains relevant. Many 'traditional' legal educators continue to resist the idea of departing from teaching law, to teach new skills¹⁸. The idea that legal professionals must now be equipped with skills that are viewed to be outside or at the periphery of legal education, may be unpalatable to such traditionalists.

However, it is arguably not just legal educators or institutions that need to adapt. Law students and other learners must also adapt to teaching approaches that are less teacher centred and increasingly self-directed and technology driven. Nonetheless, despite all these challenges, the authors remain confident that the technological and vocational changes we are now seeing, present many opportunities that can be leveraged upon – if the appropriate skills and mindset are present in the legal workplace.

In the Singapore context, times have changed. In the past, the Singapore Government and private sector players were often poorly prepared to operate in environments characterised by technology disruption and systemic change.¹⁹ Now, the Singapore Government strongly encourages businesses and education institutions to adopt an open attitude to raise efficiency on the back of technological innovation.

18 Catrina Denvir, 'The rise of the multi-disciplinary lawyers: A challenge for legal education' *Legal Futures* (26 May 2017) <<http://www.legalfutures.co.uk/blog/rise-multi-disciplinary-lawyer-challenge-legal-education>>.

19 Ho Khai Leong, *Shared Responsibilities, Unshared Power: The politics of Policy-Making in Singapore* (Eastern University Press, 2000).

Notably, the Committee for the Future Economy (CFE) is encouraging the adoption of technology within the legal sector to assist with routine legal work, allowing legal practitioners to move into higher value work.²⁰ Clearly, the Government is cognisant of the reality that legal professionals must be future ready, and that this goal can best be achieved by infusing legal training with multi-disciplinary skills, especially those which have technological expertise.²¹

To facilitate the adoption of the Singapore Government's recommendations, it is arguable that other legal education institutions should adopt multi-faceted legal training approaches. This may result in diluting or abolishing strict boundaries between disciplines (and notably between the discipline of law and other fields) when it comes to professional training programs on offer. In the authors' Polytechnic, steps are being taken to facilitate greater inter departmental/faculty cross teaching. 'Train the Trainer' programs are being rolled out to better prepare educators to adapt to technology enabled and skills based training. This should help legal educators to find that training the paralegal of the future is less challenging.

III CONCLUSION

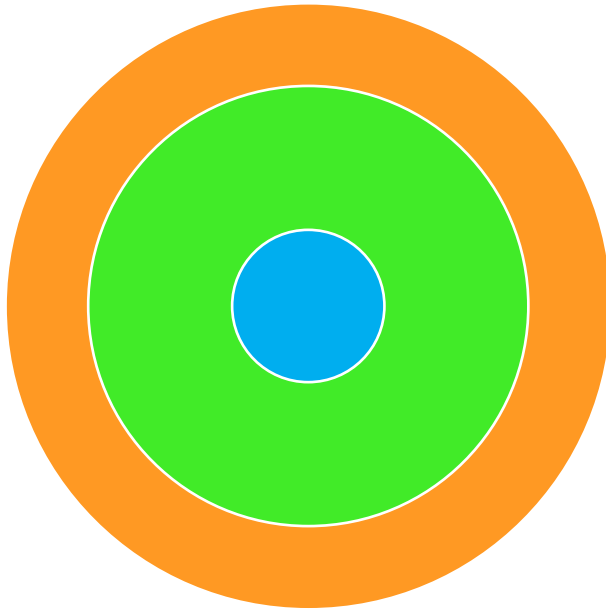
Technological change necessitates reviewing the human agent role in legal services provision. With the transformation of paralegal roles, an attitudinal change is arguably important for all stakeholders. It is also important to focus on developing intra and interpersonal competencies. Attributes such as: leadership, empathy and other-centeredness, will continue to play a vital role in paralegals' holistic development. The legal profession and legal educators must potentially factor these generic skills into their paralegal training. In curriculum re-design, skills taught through subjects like LEAP and community outreach activities, should also be equal to the skills discussed earlier.

20 Committee for Future Economy, *Report of the Working Group on Legal and Accounting Services* (2017) <<https://www.mlaw.gov.sg/content/dam/minlaw/corp/Seminar/CFE-Report%20of%20the%20Working%20Group%20on%20Legal%20and%20Accounting%20Services-Apr2017.pdf>>.

21 Committee for Future Economy, above n 20.

APPENDIX A

Diagram 1



PBL (SUBSTANTIVE) REAL (PROCEDURAL LAW)

- How to approach a problem
- How to look for information
- Asking relevant questions
- Communicating effectively
- Ability to learn independantly
- Giving and seeking feedback
- Time management – Observing deadlines
- Navigating ambiguity

ONSITE TUTORIALS

- Creative thinking
- Synthesising information
- Information and communication technology – use tech to access info, create products and solve problems

INTERNSHIPS

- Adaptability
- Managing expectations
- Commitment
- Holistic thinking
- Navigating interpersonal & intercultural vagaries
- Leadership

APPENDIX B

Diagram 2

